

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

CHILDRRESS DUFFY, LTD.,

Intervenor Plaintiff,

vs.

VALLEY BOYS, INC.,

Defendant.

**8:14CV159**

**MEMORANDUM AND ORDER**

This matter is before the court on intervenor plaintiff Childress Duffy, Ltd.'s (Childress) motion for payment of Judgment from funds reserved in trust account, [Filing No. 101](#), Childress's motion for a writ of execution, [Filing No. 106](#), and on Valley Boys, Inc.'s (Valley Boys) counsels' motion to withdraw as counsel, [Filing No. 107](#). This action for attorney fees was settled by the parties. A consent judgment was entered on January 22, 2018, in favor of Childress and against Valley Boys, in the amount of \$70,683.21, together with taxable costs and postjudgment interest as provided by law. [Filing No. 99](#).

Childress now seeks an order directing Valley Boys and its attorneys, The Merlin Law Group, to pay the judgment in this case from the settlement funds specifically reserved for payment of any such judgment and already deposited into the client trust account of The Merlin Law Group. Childress has shown that the judgment remains unsatisfied. The parties represented to the court at trial on January 22, 2018, that Seventy-Five Thousand (\$75,000.00) is being held by Valley Boys' attorney, The Merlin Law Group, in trust to satisfy the judgment owed to Childress. Further, it has shown that the property is not exempt under any statute from attachment, execution, or seizure for the satisfaction of liabilities such as the judgment entered in this case. Larry Bache and Philip Sanov of the Merlin Law Group were admitted *pro hac vice* in this case and remain attorneys of record. Childress also moves for a writ of execution.

Under the Federal Rules, “a money judgment is enforced by a writ of execution, unless the court directs otherwise” and “[t]he procedure on execution—and in proceedings supplementary to and in aid of judgment or execution—must accord with the procedure of the state where the court is located, but a federal statute governs to the extent it applies.” [Fed. R. Civ. P. 69](#) (a). Proceedings in aid of execution are governed by [Neb. Rev. Stat. § 25-1564 to 25-1580](#). Under Nebraska law, a judgment creditor can file a writ of execution to collect on a judgment. [Rojo v. Watson, No. 4:15-CV-3134, 2016 WL 5394679, at \\*4 \(D. Neb. Sept. 27, 2016\)](#). The writ typically instructs the sheriff or United States Marshal to seize and sell property, the value of which is applied to the total amount owed. [Neb. Rev. Stat. § 25-1516](#).

The court finds Childress’s motion for an order directing payment of funds should be granted. The consent judgment will be enforced. It appears the motion for a writ of execution may be premature or unnecessary in view of the order directing payment. Should Valley Boys and its attorneys fail to turn over the funds, Childress is granted leave to file a Praecipe for a Writ of Execution and a draft Writ of Execution to the Clerk of Court for issuance.

Valley Boys’ attorneys moved to withdraw as counsel and Childress opposes that motion. The court agrees the attorneys should not be allowed to withdraw until the judgment is satisfied. The court finds the motion to withdraw as counsel should be denied at this time without prejudice to reassertion once the judgment is satisfied.

IT IS ORDERED:

1. Intervenor plaintiff Childress’s motion for an order for payment ([Filing No. 101](#)) is granted.
2. Intervenor plaintiff Childress’s motion for a writ of execution ([Filing No. 106](#)) is granted.

3. Valley Boys' counsels' motion to allow the Saathoff Law Group and its attorney, Matthew P. Saathoff, and the Merlin Law Group and its attorneys Larry Bache and Philip Sanov to withdraw as counsel ([Filing No. 107](#)) is denied.

4. Within two weeks of the date of this order, Valley Boys and its attorneys, The Merlin Law Group, shall pay to Childress Duffy, Ltd. at 11 W. Illinois, 4<sup>th</sup> Floor, Chicago, IL 60654, the amount of \$70,683.21, plus post judgment interest at the rate of 1.79% from January 22, 2018 to the date the payment is made, from funds held in escrow on behalf of Childress Duffy, with such funds to be applied to satisfy the judgment entered against Valley Boys in this action.

5. Childress shall file with the court a satisfaction of judgment or is granted leave to file a Praecipe for Writ of Execution with an attached draft Writ of Execution and the Clerk of Court is authorized to issue a writ of execution on the Garnishee or its authorized agent, Larry Bache, The Merlin Law Group, 777 S. Harbour Island Blvd., Suite 950, Tampa, FL 33602, in the amount of \$70,683.21 plus post judgment interest at the rate of 1.79% from and after January 22, 2018, should Valley Boys fail to turn over funds in escrow within two weeks of the date of this order.

Dated this 9th day of May, 2018.

BY THE COURT:

s/ Joseph F. Bataillon  
Senior United States District Judge